

DECISION

20627
**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548**

FILE: B-208067.2

DATE: November 19, 1982

MATTER OF: Achon-Charlier Security, Inc.

DIGEST:

1. Protest against an amendment issued shortly before bid opening is untimely and will not be considered on the merits since the protest was filed (received) in GAO more than 10 working days after the bid opening date.
2. Where the solicitation does not require a specific license, the question of whether the successful bidder will comply with the state's licensing requirements for security guard companies is a matter between the bidder and the licensing authority and provides no basis for disturbing the award.

Achon-Charlier Security, Inc. (Achon-Charlier), protests the manner in which the General Services Administration (GSA), Region 9, San Francisco, California, issued amendments to invitation for bids (IFB) No. CRP-9PPB-82-0078. In addition, Achon-Charlier protests the award of a contract under IFB No. PBS-9PPB-82-0107 to Modern Security Services (MSS) on the grounds that MSS is not licensed as a security guard company in the State of California where the services are to be provided.

According to Achon-Charlier, bid opening for IFB-0078, which solicited security guard services for the Social Security Center, Salinas, California, was scheduled for August 19, 1982. However, on August 16, Achon-Charlier learned that GSA intended to issue two amendments, the second of which would extend bid opening until August 24. Achon-Charlier did not receive the amendments until August 23 and for the first time learned that amendment No. 1 added bid and performance bond requirements to the solicitation. In Achon-Charlier's opinion, it was totally unreasonable for GSA to expect bidders to be able to obtain the required bonding in such a short time. Because it was

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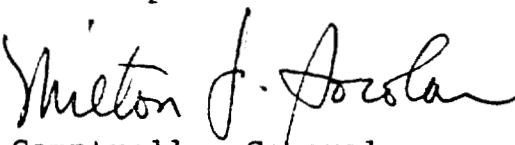
unable to obtain bonding before bid opening, Achon-Charlier's bid was rejected as nonresponsive. On September 17, 1982, Achon-Charlier filed a protest with our Office criticizing GSA's handling of this matter.

Under our Bid Protest Procedures, any protest based upon alleged improprieties in an IFB which are apparent prior to bid opening must be filed (received) either in our Office or with the contracting agency prior to bid opening. 4 C.F.R. § 21.2(b)(1) (1982). Achon-Charlier learned the basis of its protest on August 23, 1982, when it received amendment No. 1. Thus, under our procedures, Achon-Charlier should have immediately filed a protest prior to the opening of bids on August 24. However, assuming that it was impossible for Achon-Charlier to file a protest prior to bid opening, it nevertheless should have filed a protest not later than 10 working days after the August 24 bid opening. See 4 C.F.R. § 21.2(b)(2). Since Achon-Charlier's protest letter was not received in our Office until September 17, 1982, this ground for protest is clearly untimely and will not be considered on the merits.

IFB-0107 solicited security guard services for the Social Security Administration facilities in Alameda and Contra Costa Counties, California. Achon-Charlier argues that MSS, an Illinois company, should not have received the award under this solicitation since it is not licensed as a security guard company in California.

We considered the identical protest in American Mutual Protective Bureau, B-208067, July 16, 1982, 82-2 CPD 52. In that decision, we held that, since the IFB did not require bidders to have a particular license or permit but only contained a general requirement that bidders comply with any applicable licensing and permit requirements, the bidder's failure to possess a particular license or permit did not prevent it from receiving the award. Whether MSS complies with such requirements is a matter between MSS and the licensing authority. Therefore, we conclude here, as we did in American Mutual Protective Bureau, supra., that this ground for protest is without merit.

The protest is dismissed in part and denied in part.

for 
Comptroller General
of the United States